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Convention on the Rights of Persons with Disabilities

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Committee on the Rights of Persons with Disabilities
Seventeenth session

Summary record of the 309th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 28 March 2017, at 10 a.m.

Chair: Ms. Degener

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by parties to the Convention under article 35 (*continued*)

Initial report of Bosnia and Herzegovina (*continued*) (CRPD/C/BIH/1; CRPD/C/BIH/Q/1)

1. *At the invitation of the Chair, the delegation of Bosnia and Herzegovina took places at the Committee table.*

Articles 1-20

2. **Ms. Đuđerija** (Bosnia and Herzegovina), responding to questions from Committee members about access to justice for persons with disabilities, said that no architectural barriers existed in the majority of judicial institutions.

3. Interpretation services were made available to all individuals appearing before the courts, including persons with disabilities. Although sign language interpreters were available, as well as interpreters for persons with visual impairments, a separate register of court-certified sign language interpreters did not exist.

4. On certain specified days, full access was available to the ground floor of the Office of the Human Rights Ombudsman in Banja Luka. When the current lease expired, it was hoped that the Office would be transferred to a more accessible building.

5. **Ms. Stevanović** (Bosnia and Herzegovina) said that, under the Constitution, all persons enjoyed full equality before the law, including persons with mental impairments. In order to ensure that such persons were capable of taking decisions on their own, however, it was obligatory for them to undergo an assessment by a neuropsychiatrist. Their legal competence could then, in their own interests, be limited or removed by the courts in accordance with recommendations made by specialists and the views expressed by interim guardians and court-certified experts. When such a decision was taken, the courts informed the relevant social protection centre, which issued a certificate to that effect. By way of example, legal competence had been removed in 11 out of 12 cases that had come before the courts in Brčko District in 2016. Persons whose legal competence was removed remained with their families, who acted as their main care providers.

6. **Mr. Jonjić** (Bosnia and Herzegovina), responding to a question concerning the institutionalization of persons with mental impairments, said that social protection institutions set up by the previous Government had been maintained by the staff who lived and worked in them, but their legal status had been uncertain until, in 2009, the Government had adopted a law on the right of ownership of such institutions. Moreover, some social protection institutions were managed by the cantons. Three such institutions currently housed 1,200 persons with different forms of mental impairment, all of whom were in the process of being deinstitutionalized in accordance with a strategy adopted by the Government in 2014. One of the three institutions had, with help from international donors, already transferred some of its residents to assisted housing in the community. Furthermore, the Union of Organizations for the Support of Persons with Intellectual Disabilities (SUMERO) had established an institution that cared for persons with mental impairments in the community. Some 22 such persons had been placed in houses or flats with facilities that enabled them to live independently.

7. In 2009, one particular institution had been given a highly negative assessment by the Ombudsman of the time. Since then, the Government had invested 3.5 million marka — about €1.7 million — in rebuilding the institution. As a result, living conditions in the institution in question had significantly improved. The process of deinstitutionalization of persons with mental impairments was developing rapidly.

8. Separate facilities had been established for prisoners with mental impairments, in line with a recommendation to that effect by the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

9. **Ms. Pašić** (Bosnia and Herzegovina), responding to a question on organizations with members with disabilities, said that the law facilitated the process of establishing and registering a non-governmental organization (NGO). Consequently, hundreds of organizations existed that had members with disabilities. The law provided for the establishment of organizations of persons with disabilities, which worked to improve the lives of such persons in conjunction with the Ministry of Labour and Social Policy, and 15 such organizations were publicly funded. Such organizations were consulted on public policy and strategies. The Government ensured that organizations responsible for finding solutions to the problems faced by persons with disabilities included such persons among their members. Organizations whose members were persons with disabilities and organizations that worked to support such persons, such as SUMERO and the organization of persons with Down syndrome, some members of which had children with Down syndrome, were given equal treatment.

10. **Mr. Dubrał** (Council of Persons with Disabilities, Bosnia and Herzegovina) said that the Council had members with all types of disabilities. Two current members had mental impairments. Responding to the question on the involvement of persons who were not members of the Council in its work, he said that meetings of the Council were held in various regions and were attended by representatives of the main organizations in the region concerned. Five or six such meetings had taken place in different regions over the past year. The Council was given professional and technical support by the Ministry of Human Rights and Refugees and the Ministry of Civil Affairs. NGOs and civil society organizations also contributed to its work.

11. The procurement of medical aids, including orthopaedic aids, for persons with disabilities was governed by the Public Procurement Act. The Council of Persons with Disabilities had launched an initiative to ensure that the best interests of persons with disabilities in general were taken into account under the Act.

12. **Ms. Bešlija** (Council of Persons with Disabilities, Bosnia and Herzegovina) said that the manner in which orthopaedic aids were allocated was unsatisfactory. The Health Insurance Act was implemented at the level of entities and cantons in the Federation of Bosnia and Herzegovina, complicating an already complex area. Orthopaedic aids were provided through the public procurement system in the Republika Srpska, whereas, in the Federation, each canton issued its own rule book on the procurement of such aids. Some cantons complied with the law on public procurement, while others did not. Owing to the fact that different cantons operated under different rules, therefore, the provision and availability of orthopaedic aids varied from canton to canton. The current system was discriminatory in that, in some cantons, the availability or otherwise of orthopaedic aids depended on the cause of the disability concerned. For example, some cantons applied additional rules on the provision of orthopaedic aids to persons with war-related disabilities. It was necessary to harmonize regulations on public procurement across the Federation so that minimum standards could be established.

13. The mobility of blind persons in cities was hindered by a lack of facilities and poor physical access. The provision of aids for blind persons and deaf persons was also unsatisfactory.

14. **Ms. Stevanović** (Bosnia and Herzegovina), recalling that Brčko District had faced a natural disaster in 2014, said that disaster situations fell within the purview of the Ministry of Security in the Federation of Bosnia and Herzegovina and of the Civil Defence in Brčko District. The protection of property during natural disasters was governed by a law requiring institutions to prepare strategies for protection against such events and prioritizing the protection of vulnerable groups, including persons with disabilities. The social services also prepared action plans for natural disasters and issued guidelines concerning the work to be carried out following a natural disaster.

15. **Ms. Đuderija** (Bosnia and Herzegovina), responding to questions relating to health care, said that, under the existing legislation, medical interventions could not take place without the consent of the patient or, in the case of a minor, his or her parents or guardians.

16. According to the report of the Office of the Human Rights Ombudsman, most institutions had established protocols, bodies and mechanisms to protect women and

children from exploitation in institutions and to address any form of violence that occurred. Under rules and procedures that applied to all institutions and formed part of primary and secondary legislation, it was obligatory for all such cases to be reported to the police and the prosecutor's office. While the Office of the Human Rights Ombudsman was responsible for monitoring the implementation of such rules, independent organizations could also notify the police of any incidents of violence of which they became aware.

17. With regard to the allocation of assistance to displaced persons and refugees, including the provision of housing, priority was given to families that included persons with disabilities. Assistance with entering the labour market depended on the resources available locally and the requirements of the local market.

18. **Mr. Jonjić** (Bosnia and Herzegovina) said that legislation at the level of the State provided that deaf persons had the right to request an interpreter for court proceedings and other purposes. As all nine court-certified, sign language interpreters were based either in Mostar or Sarajevo, persons outside those cities found it difficult to obtain access to an interpreter. In recent years, lottery funds had been used to support training programmes run by certified interpreters in the use of sign language. In 2016, the maximum permitted sum of €15,000 had been allocated to such programmes and some 53 persons had completed one. Training seminars had been organized to teach basic communication skills to persons who were hard of hearing or those who needed to communicate with them. Such seminars were supported by lottery funds and managed by the Association of Deaf and Hard-of-Hearing Citizens.

19. **Mr. Babu** said that, while the State party reported a relatively low prevalence of HIV/AIDS, in the Committee's experience certain population groups were often not included in HIV/AIDS interventions. With that in mind, he wished to know whether Bosnia and Herzegovina had a national HIV/AIDS strategy and, if so, whether measures to tackle the disease were targeted at persons with disabilities. He would also welcome data regarding any sexual and reproductive health and education services that were available to persons with disabilities, in particular to blind persons and deaf persons.

20. **Mr. Kabue** said that he would like to know what action the State party had taken since the submission of its initial report to improve the training of teaching assistants with a view to strengthening inclusive education at both primary and secondary level. He wondered whether all persons with disabilities in the State party were covered by health insurance and, if not, what provision was made to ensure that uninsured persons had access to health care. Lastly, he wondered why the social benefits available to persons with disabilities in the State party differed depending on whether they were categorized as war veterans with disabilities, civilian war victims with disabilities and non-war-related persons with disabilities. The differential treatment had the effect that persons who had disabilities that were not war-related received so little in the way of social protection that they were living in poverty, which was not in line with the Convention.

21. **Mr. Rukhledev** said that he wished to know what specific support was provided by the State party to develop and promote sports involving persons with disabilities; encourage persons with disabilities, including children with disabilities, to take part in sporting activities; and ensure that sports facilities were fully accessible. He would also welcome information on what measures the State party was taking to ensure that cultural sites were fully accessible and to enable persons with disabilities to realize their creative potential.

22. **Mr. Lovászy** (Country Rapporteur) said, with reference to article 21 of the Convention, on freedom of expression and opinion, and access to information, that he wished to know to what extent public broadcasters and private media outlets provided information in accessible formats; what incentives and sanctions were at the State party's disposal to improve the accessibility of information, including any draft legislation; and whether any teletext channels were available for deaf and hard-of-hearing persons. He would also welcome information regarding the successes that had so far been achieved through the 2015-2018 action plan for children and the options that were available to families of children with disabilities to prevent their children from being institutionalized.

23. Turning to education, he said that he would like to know what budgetary and other measures had been introduced to ensure inclusive education at all levels of schooling, in

line with the Committee's general comment No. 4 on the right to inclusive education; what concrete results had been obtained following completion of the Strategic Directions in the Development of Education initiative for the period 2008 to 2014; how many teaching assistants in total were available in the cantons of the Federation of Bosnia and Herzegovina; and how many children with disabilities had received support from teaching assistants in inclusive settings. He also wished to know whether there was a link between access to quality preschool education and the purchasing power of parents and whether there was a system in place to subsidize the cost of assistive technologies for marginalized families.

24. The delegation should provide information on the number of persons with disabilities who were employed, unemployed or deemed inactive and on access to support and reasonable accommodation in the workplace. In that connection, he asked how many public sector employers had failed to meet their obligations to employ persons with disabilities.

25. He wished to know how the State party intended to improve the collection of data on disabilities and how, in the absence of an agreed definition of persons with disabilities in Bosnia and Herzegovina, it envisaged being able to collect relevant, harmonized and disaggregated data in the future.

26. **The Chair** asked what the situation was regarding persons with disabilities who were under legal guardianship. Did they have the right to marry, for example?

The meeting was suspended at 11.30 a.m. and resumed at 11.50 a.m.

27. **Ms. Duderija** (Bosnia and Herzegovina) said that, while some progress had been made to increase the accessibility of media information, there remained a lack of television programming adjusted to the needs of persons with disabilities. Moreover, only certain privately owned television stations currently had provision for subtitled programming. Although television stations were beginning to comply with recommendations to provide subtitled programming rather than just having teletext channels, very few broadcasts had sign language interpretation and foreign-language content was not translated. Regarding public information, sign language interpreters were available only in the justice system and Braille was used only very rarely. In a similar vein, most websites were not yet accessible for persons with disabilities. Steps were, however, now being taken to ensure that public administration websites were kept updated to ensure that they were accessible.

28. **Ms. Bešlija** (Council of Persons with Disabilities, Bosnia and Herzegovina) said that, under electoral law, persons with disabilities could make a request for an assistant to help them in registering for, and taking part in, voting procedures. Mobile teams were also available to help persons with disabilities in that regard. The Central Electoral Commission did not, however, have the requisite data regarding blind voters to enable it to produce voting cards and other documentation in Braille format, to train polling officers to count Braille ballots or to ensure that the necessary reasonable accommodations were in place at specific polling stations. Televised election campaigns and information were broadcast with sign language interpretation. Lastly, since the electoral roll did not contain the names of persons who had been deprived of legal capacity, they could be restored to the register at a later date.

29. **Ms. Borovčanin Marić** (Bosnia and Herzegovina) said that the Office of the Human Rights Ombudsman monitored the implementation of all international instruments ratified by Bosnia and Herzegovina, including the Convention. The Office also investigated individual complaints received from members of the public, including persons with disabilities, and could launch actions of its own motion against discriminatory information in the media or online. It also produced annual reports, which invariably included issues related to persons with disabilities, and had on one occasion issued a special report regarding the accessibility of public buildings.

30. The Ministry of Human Rights and Refugees also received complaints from persons with disabilities, often in relation to access to the built infrastructure. Although no complaint of discrimination had as yet been upheld with regard to the distinction between war veterans with disabilities and other persons with disabilities, it was clear that persons

with disabilities were not fully aware of their rights. There was a proposal that organizations of persons with disabilities should take the lead on that front by informing persons with disabilities of their rights under the Convention and of the functions of the Office of the Human Rights Ombudsman.

31. **Mr. Kličković** (Bosnia and Herzegovina) said that, in Republika Srpska, a two-pronged approach had been taken to promoting the employment of persons with disabilities in the open labour market: namely, the establishment of the Professional Rehabilitation and Employment of Persons with Disabilities Fund of the Republika Srpska, which, among other activities, provided funding and incentives for employers; and the introduction of financial penalties for public sector employers who did not meet the quota of one person with disabilities for every 16 employees. Despite those measures, progress had not met expectations, largely owing to the difficult economic situation. As matters stood, just 1 in 120 public employees was a person with disabilities, although the data for 2016 were not yet available. The Republika Srpska Government had also started offering incentives to private enterprises with a view to fostering wider employment of persons with disabilities, and that seemed to be having some effect. Priority now needed to be given to developing and promoting professional rehabilitation services.

32. Around 2,000 persons with disabilities were registered as actively looking for employment in 2016. Unemployed persons with disabilities who were unable to work could receive financial support from organizations of persons with disabilities. Lastly, equal pay for equal work was enshrined in employment law and no persons with disabilities could be paid less than the general minimum wage.

33. **Mr. Jonjić** (Bosnia and Herzegovina) said that, in the Federation of Bosnia and Herzegovina, a range of employment-related laws were in force to uphold the rights of persons with disabilities in the labour market, eliminate discriminatory practices, establish public sector employment quotas and provide for professional rehabilitation. Public sector employers, including government ministries, that failed to meet the quota for employing persons with disabilities received a financial penalty in the form of a 25 per cent increase in some of the contributions that they paid. Although persons with disabilities had priority in public sector employment, it seemed that the concept of equal treatment had been misinterpreted by some recruiters and thus had not always been implemented correctly. A number of prosecutions were under way in connection with such failure to comply with the law.

34. In addition to employment on the open labour market and in the public sector, persons with disabilities could work in one of 50 specialized enterprises set up for that purpose. The activities of the Professional Rehabilitation and Employment of Persons with Disabilities Fund in the Federation of Bosnia and Herzegovina included ensuring that employment levels were maintained in specialized enterprises and launching vocational training programmes. During the period 2011 to 2016, the Fund had invested almost 20 million marka in training persons with disabilities and offering incentives to prospective employers. To date, around 1,500 persons with disabilities had gained employment in the open labour market and in specialized enterprises as a result. The ultimate goal was to employ more persons with disabilities in the open labour market rather than in specialized enterprises. Although better controls needed to be introduced, the fact that persons with disabilities were invoking their rights in court was helping to raise greater awareness among the general public of their right to equal treatment in the workplace.

35. There were 200,000 registered persons with disabilities in the Federation, but only 6,500 were registered with the job agency as actively seeking employment. While persons with disabilities did not lose their disability benefits, which left them free to seek meaningful employment, the fact that war veterans with disabilities received such high social benefits might be deterring them from looking for work. Another reason for the low unemployment rate of persons with disabilities was the prevalence of informal employment. The Government was continuing with its efforts to reduce informal labour and encourage persons with disabilities to register with the agency and seek work in the open labour market.

36. While the reasons underlying the different definitions of persons with disabilities in Bosnia and Herzegovina were historical, the effect had been clear discrimination. Significant action had been taken over the past two years, however, and the Federation was committed to doing all it could to eliminate differential treatment of persons with disabilities. In future, disability benefits would not be awarded on the basis of whether or not a person with disabilities had or had not been injured during the war. Instead, such persons would be assessed on an equal basis and would receive equal compensation in the form of disability payments. It was possible that war veterans would be entitled to an additional benefit to recognize their sacrifice.

37. **Mr. Kličković** (Bosnia and Herzegovina) said that, apart from health-care insurance, there were no benefits specifically for persons with disabilities in the Republika Srpska. Persons with disabilities had the same unemployment entitlements as non-disabled persons. Those allowances were based on the length of service and salary earned in their previous employment. All other employment rights were the same as in the Federation of Bosnia and Herzegovina. While measures had yet to be taken with regard to the distinction between war-related and non-war-related disabilities, plans to tackle inequality and improve the situation of persons with disabilities were in the pipeline for the period 2017 to 2026.

38. **Ms. Palić** (Bosnia and Herzegovina) said that families of persons with disabilities received only a low level of support in the Federation of Bosnia and Herzegovina. Society had not been fully able to create opportunities for persons with disabilities in all aspects of life. In an effort to bridge that gap, a bill introducing a minimum level of social protection for families of persons with disabilities had been submitted to the Parliamentary Assembly but had not been adopted. As matters stood, only a few cantons paid higher child benefits to families that had children with disabilities.

39. Regarding culture and sport, little progress had been made since the submission of the report to promote the participation of persons with disabilities in sporting activities or to ensure that sports facilities were accessible. The strategy to advance the position of persons with disabilities in the Federation of Bosnia and Herzegovina for the period 2016 to 2021 included measures to remove barriers to the physical infrastructure and to provide information technology support to persons with sensory impairments in all educational, cultural and sporting venues. Moreover, there were plans to ensure that cultural events were adapted to include persons with disabilities and to secure the financial resources necessary to make cultural and sporting venues accessible to persons with disabilities.

40. **Mr. Terko** (Bosnia and Herzegovina) said that a law had recently been enacted in Bosnia and Herzegovina with a view to placing children in need of State care with foster families rather than in institutions so that they could be raised in a more natural, family environment. It was recognized that Bosnia and Herzegovina was one of the few countries in which institutionalization was common, but the ultimate goal, through that law and other measures, was to eliminate the use of institutions entirely. A committee had been set up to undertake research and make recommendations to that end.

41. The Policy for Improvement of Early Growth and Development of Children had been adopted in 2012 by both the Federation of Bosnia and Herzegovina and the Republika Srpska with a view to providing early detection and intervention services for children of preschool age, preparing children for primary and secondary education and providing support for parents. Assessment centres had been opened throughout the various municipalities to provide those services. Although some centres had subsequently closed down, hundreds of children had been assessed. However, only around 9 per cent of children in Bosnia and Herzegovina attended preschool and the proportion of children with disabilities within that 9 per cent was low.

42. Training for teaching assistants was not fully developed and the number of teaching assistants in schools had not reached expectations.

43. **Ms. Đuderija** (Bosnia and Herzegovina) said that measures to improve the situation of persons with disabilities in Bosnia and Herzegovina would continue, with the Committee's recommendations and forthcoming concluding observations forming the basis for renewed action to uphold the rights of all persons with disabilities. The country undoubtedly faced many challenges, but it was committed to making progress by working

with persons with disabilities and their representative organizations as well as with Committee members and the country's public institutions.

44. **Mr. Lovászy**, commending the delegation for what had been a constructive dialogue, said that the information outstanding should be provided in writing as soon as possible, since it would be helpful to the Committee in formulating its concluding observations. He expressed the hope that the Committee's recommendations would be studied closely in collaboration with organizations of persons with disabilities at both national and local levels and that they would be published and made widely available in the State party.

The meeting rose at 1 p.m.